

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:06-CR-35-1H
No. 4:16-CV-152-H

COYT BRYANT,)
)
Petitioner,)
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)
)
v.)
)
)
UNITED STATES OF AMERICA)
)
)
Respondent.)

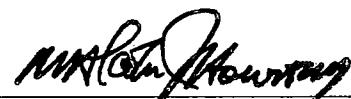
ORDER

This matter is before the court on petitioner's successive motion to vacate pursuant to 28 U.S.C. § 2255 filed on June 25, 2016, following the Fourth Circuit granting petitioner permission to file a second or successive § 2255 motion based on Johnson v. United States, 135 S.Ct. 2551 (2015) [DE #148]. The government responded, notifying the court it agrees that, in light of Johnson, petitioner lacks the three predicates necessary for enhancement under § 924(e)(1). Specifically, it appears his conviction in New York for attempted second degree burglary [PSR at 6, ¶ 13] does not qualify as a violent felony following Johnson. The government consents to the court granting petitioner's motion to vacate and re-sentencing petitioner.

Therefore, the court hereby GRANTS petitioner's motion to vacate. This matter is SCHEDULED for resentencing at the court's October 11, 2016, criminal term. The petitioner shall remain in

custody pending the resentencing hearing. The United States Probation Office is DIRECTED to provide the parties and the court with a resentencing memorandum. Furthermore, counsel for petitioner shall continue representing petitioner in connection with the resentencing under the Standing Order 15-SO-02. The clerk is directed to serve a copy of this order upon the United States Probation Office.

This 31st day of August 2016.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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